



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 26, 1996

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR96-0089

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37925.

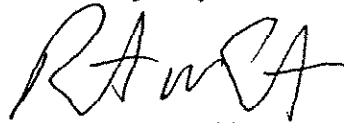
The City of Houston received a request for information under the Open Records Act on December 8, 1995 from Mr. Doug Young. Although the letter you addressed to this office requesting an open records decision is dated December 18, 1995, the tenth calendar day after the city's receipt of the open records request, the postmark on your correspondences indicates that you did not submit your request until December 19, 1995. Consequently, you failed to request a decision within the ten days required by section 552.301(a) of the Government Code.

Section 552.301(a) requires a governmental body to release requested information or to request a decision from the attorney general within ten days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. See *Hancock* at 381.

You have not shown compelling reasons why the information at issue should not be released.¹ In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. *See also* Gov't Code § 552.352 (distribution of confidential information is criminal offense). If you have any questions regarding this matter, please contact our office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/RWP/ch

Ref: ID# 37925

Enclosures: Submitted documents

cc: Mr. Doug Young
Scanlan, Buckle & Young
602 West 11th Street
Austin, Texas 78701-2099
(w/o enclosures)

¹See Open Records Decision No. 630 (1994) (mere fact that information would otherwise be protected under attorney-client privilege not "compelling" reason for non-disclosure where ten-day violation occurs).